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Christine Satchell

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SEAGER, TUFTE & WICKHEM, LLC  
1221 NICOLLET AVENUE  
SUITE 800  
MINNEAPOLIS, MN 55403-2420

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SONG, DAEHO D

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/580,800	<b>Applicant(s)</b> SACHELL, CHRISTINE	
	<b>Examiner</b> DAEHO D. SONG	<b>Art Unit</b> 2172	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Applicant's Response***

In Applicant's Response dated 12/10/2010, Applicant amended Claims 1, 6, 12, 21, 32, 34, 36, 39, and 40, and argued against all rejections previously set forth in the Office Action dated 09/10/2010.

In light of Applicant's amendments and remarks, the rejections of Claims 1-20 under 35 U.S.C. §101 are withdrawn.

***Claim Objections***

Claim 6 is objected to because of the following informalities: Claim 6 has been previously presented, and not currently amended. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

More specifically, Claim 1 recites as amended in the last limitation, “*wherein communicating the first avatar comprises displaying a visual representation of the second avatar on the first communication device and communicating the second avatar comprises displaying a visual representation of the third avatar on the second communication device.*” However, the description of specification lacks sufficient detail to support the recited limitation of claim 1.

Accordingly, Claims 1-11 are rejected as containing subject matter not described in the specification in such a way as to reasonably convey to one of ordinary skill in the art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

For the purpose of examination, the Examiner reads the above recited limitation according to sufficient support from the specification of the application as following:

“*wherein communicating the first avatar comprises displaying a visual representation of the first avatar on the second communication device and communicating the second avatar comprises displaying a visual representation of the*

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second avatar on the third communication device" (see pages 15 and 16, last paragraph and first paragraph, respectively, of the Specification).

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- More specifically, claim 1 recites the limitation "*the third avatar*" in the last phrase of claim 1, and there is insufficient antecedent basis for this limitation in the claim.
- Furthermore, claim 1 recites the limitation "*to determine an attribute of the second communication device*" in line 5, and it is vague and indefinite whether it is a repeated phrase intentionally or meant to be a different limitation. For the purpose of examination, the Examiner interprets the above recited limitation as "*to determine an attribute of the third communication device*".

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-12, 25-32 and 35-40 are rejected under 35 U.S.C. 102(e) as being **clearly** anticipated by Guyot et al. (hereinafter Guyot): U.S. Patent Application Pub. No. 2006/0046699.

Guyot **expressly** teaches:

*Claim 1. A communication system comprising: a first communication device, comprising:*

*determining means operable to determine an attribute of a second communication device and to determine an attribute of the second communication device (fig. 3;*

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[0045][0052]: determining a phone number of a second mobile phone and a phone number of a third mobile phone utilizing Global System for Mobile communications);

*identifying means operable to identify a first avatar by using the attribute of the second communication device, wherein the first avatar is such that it conveys to a*

*viewer thereof information about a person (fig. 4; [0046]: identifying a first avatar by the second mobile phone number wherein the first avatar conveys to a viewer about a person's mood/attitude, such as "angry" for avatar B of fig. 4); and*

*identifying means operable to identify a second avatar, different from the first avatar, by using an attribute of the third communication device, wherein the second avatar is such that it conveys to a viewer information thereof about the person (fig. 4;*

*[0046]: identifying a second avatar by the third mobile phone number wherein the second avatar conveys to a viewer about a person's mood/attitude, such as "sad" for avatar C of fig. 4);*

*communicating means operable to communicate the first avatar to the second communication device and the second avatar to the third communication device, wherein communicating the first avatar comprises displaying a visual representation of the second avatar on the first communication device and communicating the second avatar comprises displaying a visual representation of the third avatar on the second communication device (fig. 4; [0018][0046]: communicating between the first avatar and the second avatar by means of displaying different visual image for each avatar on their*

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mobile phones, such as displaying an image of “angry” for avatar B and an image of “sad” for avatar C).

*Claim 2. The communication system as claimed in claim 1, further comprising replacing means operable to replace the first avatar with another avatar ([0018]: selecting a different avatar).*

*Claim 3. The communication system as claimed in claim 2, wherein the identifying means is operable to identify the first avatar by comparing the attribute to a communication device identifier that is associated with the avatar ([0046]: identifying the avatar by different user’s name associated with the avatar).*

*Claim 4. The communication system as claimed in claim 3, further comprising recording means arranged to allow the person to record the communication device identifier ([0053]: storing the user’s name associated with avatar).*

*Claim 5. The communication system as claimed in claim 4, wherein the replacing means is further operable to replace the communication device identifier with another communication device identifier (fig. 4; [0053]: selecting different user’s name associated with avatar).*



*Claim 6. The communication system as claimed in claim 5, further comprising selecting means operable to allow the person to select the first avatar from a plurality of other avatars associated with the person (fig. 4; [0046]: selecting a first avatar).*

*Claim 7. The communication system as claimed in claim 6, wherein the selecting means is further operable to allow the communication device identifier to be selected from a plurality of other communication device identifiers (fig. 3; [0045]: selecting a name from a list of members).*

*Claim 8. The communication system as claimed in claim 7, wherein the determining means is operable to determine the attribute by processing caller identification data associated with the communication device ([0052]: providing telephone numbers with GSM and SMS).*

*Claim 9 The communication system as claimed in claim 8, further comprising messaging means operable to create a text, an audio and/or a video message that is associated with the avatar ([0024][0052]-[0054][0007]: SMS & audio/video conference).*

*Claim 10. The communication system as claimed in claim 9, wherein the first avatar and the plurality of other avatars depict an activity that involves the person ([0020]).*

*Claim 11 The communication system as claimed in claim 10, wherein the communication device comprises a mobile telephone and the attribute comprises a telephone number of the mobile telephone ([0052]).*

*Claim 12. A communication system comprising:*  
*an environment support means operable to support at least one virtual environment that can be accessed by a first person (fig. 1; [0009][0041]: a virtual reality system that can be accessed by a first person); and*  
*a communicating means operable to communicate an avatar in the virtual environment to a mobile telephone handset of the first person subsequent to the first person accessing the environment, the avatar being such that it can convey to the first person information about a second person, whereby a visual representation of the avatar in the virtual environment is sent to the mobile telephone handset (figs. 2-4; [0043]-[0046]: communicating an avatar to a mobile phone of the first person carrying information about a second person by means of sending a visual image of the avatar to other mobile phone display).*

*Claim 15. The communication system as claimed in claim 14, wherein the environment support means is such that it allows the first person to arrange the virtual environment such that it has a desired appearance (fig. 4; [0042]: changing character mood).*

*Claim 16. The communication system as claimed in claim 15, wherein the environment support means is operable to allow the first person and the second person to exchange other information via the virtual environment ([0018]: exchanging information).*

.

*Claim 17. The communication system as claimed in claim 16, wherein the other information comprises multi-media content ([0024]: audio information).*

.

*Claim 18. The communication system as claimed in claim 17, wherein the communicating means is further operable to allow the second person to control whether the avatar conveys the information to the first person ([0045][0046]: selecting avatar mood).*

.

*Claim 19. The communication system as claimed in claim 18, wherein the environment support means is operable to allow the first person to access the virtual environment via a communication network, the communicating means also being operable to communicate the avatar in the virtual environment to the first person via the communication network (fig. 1; [0041]).*

.

*Claim 20. The communication system as claimed in claim 19, wherein the information conveyed by the avatar to the first person comprises audio and/or video information ([0024][0052]-[0054][0007]).*

*Claims 21-31:*

The subject matter recited in Claims 21-31 corresponds to the subject matter recited in Claims 1-11, respectively. Thus Guyot discloses every limitation of Claims 21-31, as indicated in the above rejections for Claims 1-11.

*Claims 32 and 35-40:*

The subject matter recited in Claims 32 and 35-40 corresponds to the subject matter recited in Claims 12 and 15-20, respectively. Thus Guyot discloses every limitation of Claims 32 and 35-40, as indicated in the above rejections for Claims 12 and 15-20.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claim 13-14 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guyot, in view of Toyota et al. (hereinafter Toyota): U.S. Patent Application Pub. No. 2003/0028596.

As indicated in the above rejection, Guyot discloses every limitation of claim 12.

Guyot fails to disclose user's access authority to virtual environment.

Toyota expressly teaches the user's access authority to virtual environment, and specific disclosures of particular claims are as following:

Toyota expressly teaches:

*Claim 13. The communication system as claimed in claim 12, which the environment support means is operable to determine a level of authority associated with the second person, and provide the second person with access to the virtual environment if the level of authority is deemed appropriate, where access to the virtual environment comprises conveying a visual representation of the virtual environment (fig. 8; [0012][0013][0127]: access control to a virtual community conveying community ID of each virtual community).*

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*Claim 14. The communication system as claimed in claim 13, wherein the environment support means is operable to allow the first person to assign the level of authority ([0012][0013]: determining or assigning user's access authority for each terminal).*

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the disclosure of Guyot to incorporate with user's access authority to a virtual community, as taught by Toyota, in order to provide for the users to be able to freely participate without any specific participation procedure in virtual community (see [0010]).

*Claims 33 and 34:*

The subject matter recited in Claims 33 and 34 corresponds to the subject matter recited in Claims 13 and 14, respectively. Thus Guyot in view of Toyota discloses every limitation of Claims 33 and 34, as indicated in the above rejections for Claims 13 and 14.

***Response to Arguments***

7. Applicant's arguments against the rejections based on 35 U.S.C. § 102 with respect to Claims 1-40 have been considered, but they are not persuasive.

a. Applicant argues that Guyot fails to disclose:

*communicating means operable to communicate the first avatar to the second communication device and the second avatar to the third communication device, wherein communicating the first avatar comprises displaying a visual representation of the second avatar on the first communication device and communicating the second avatar comprises displaying a visual representation of the third avatar on the second communication device.*

The examiner disagrees.

As indicated in the above rejection for Claim 1, Guyot expressly teaches that a first user selects his avatar, and sends it to a second user. Then the avatar for the first user is appeared on the second user display. Similarly, the first user also selects another new avatar, and sends it to a third user. Then the new avatar for the first user is appeared on the third user display. As a result, the second user and the third user would know the status of the first user (see figs. 3 and 4; [0045][0046]).

Specifically, Guyot clearly states in [0045] and [0046] that a user A is able to select another user, such as user B, C, D, or E. Then the user A is also able to choose his avatar to send it to another user, and select another avatar for the user A to send it

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to other user. Consequently, different avatars for user A are displayed on the screens of other users accordingly. Guyot expressly describes it in the following paragraphs:

[0045] FIG. 3 schematically illustrates a mobile telecommunication terminal 1, here the terminal used by end user A, to which a handsfree set 11 is connected. It is here also supposed that end user A initiates a speech and avatar communication. In the server end user A has defined a group of members that should be available. It is supposed that the user A has accessed the mobile application service MAS and has indicated that he intends to communicate with a group. By selection of "ADD", the list of members of the group will appear on the display. **End user A is then able to select one or more of end user B, C, D, E.** When this has been done, everyone can be reached by the mobile avatar system. Depending on whether they are logged on or upon affirmative response to an indication by the mobile avatar system, the server will set up a conference call with end users B, C, D, E. They can then speak with each other and with end user A and the respective customized avatars of the end users will appear on the screens or display means of the terminals of the end users as illustrated in FIG. 4.

[0046] It is here supposed that end user B is represented by an angry avatar attitude, end user C by a sad avatar attitude, end user D by a fish, and end user E by a smiling avatar. It is here supposed that the avatar of end user A, also is indicated on the display of the terminal of user A, this is however not necessary, the interesting feature being that the avatars of the other parties of the conference are shown on the display means of end user A, and vice versa for the other parties. During the conversation **end user A can select and alter the kind of attitude his avatar should have.** Particularly the current attitude mode is highlighted, here "confused". The avatars of end users A, B, C, D, E appear only as long as the respective end users are connected, and thus, if an end user is disconnected, his customized avatar will disappear and correspondingly, **as an end user logs on to the MAS, his avatar will appear on the display means of the others.** It should be clear that in FIGS. 3, 4 only one simplified example is illustrated. By selecting QUIT, end user A may leave the conversation. It is also possible to select SOUND during the conversation to additionally transfer sound effects to the other parties of the conversation. Different sounds can be configured for different keys, and by pressing a key, the selected sound will be transferred by the web server (i.e. MAS). This is however an optional feature.

b. Applicant argues that Guyot fails to disclose:

*a communicating means operable to communicate an avatar in the virtual environment to a mobile telephone handset of the first person subsequent to the first person accessing the environment.*



The examiner disagrees.

As indicated in the above rejection for Claim 12, Guyot expressly teaches that an end user A terminal/telephone handset is connected first, and then the end user A is able to initiate an avatar communication (see [0045]). Thus, the avatar communication to a mobile telephone handset of the first person occurs after the first person has been connected to access the virtual environment.

Accordingly, Guyot clearly disclose:

*a communicating means operable to communicate an avatar in the virtual environment to a mobile telephone handset of the first person subsequent to the first person accessing the environment.*

### **Conclusion**

**THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAEHO D. SONG whose telephone number is (571)272-7524. The examiner can normally be reached on Mon-Fri 9:30-6:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boris Pesin can be reached on (571)272-4070. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daeho D Song/  
Examiner, Art Unit 2172

/Boris Pesin/

Supervisory Patent Examiner, Art Unit 2172

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